

**STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND, AND WATER
FINAL FINDING AND DECISION**

of a
**Proposed Land Offering in the Kenai Peninsula Borough
Old Sterling Hwy Subdivision – ADL 232300**
AS 38.05.035(e), AS 38.05.045

and its
RELATED ACTIONS:
Amendment to the Kenai Area Plan SC-99-002A13
AS 38.04.065
Land Classification Order CL SC-99-002A13
AS 38.04.065 and AS 38.05.300
Mineral Order (Closing) MO 1188
AS 38.05.185 and AS 38.05.300

This Final Finding and Decision (FFD) complements and updates the Preliminary Decision (PD) dated August 31, 2017. The PD (attached) and related actions have had the required public review.

I. Recommended Action(s)

The State of Alaska, Department of Natural Resources (DNR), Division of Mining, Land, and Water (DMLW), Land Sales Section (LSS) recommends offering for sale State-owned land for private ownership within the Old Sterling Hwy project area (ADL 232300), as described in the Preliminary Decision. Surveyed parcels will be offered for future sale by a method under *AS 38.05.045 Generally*.

For the purposes of providing land for settlement in the Old Sterling Hwy project area, DNR may develop a subdivision of no more than 6 parcels varying in size from nominal 1 acre to no more than 10 acres.

This project area is located within the Kenai Peninsula Borough (KPB) and therefore survey, platting, and access to and within the project area will be subject to the relevant subdivision standards. The project may be subdivided and offered in multiple stages.

There are three related actions with this proposal:

Area Plan Amendment: DNR DMLW proposes to amend the Kenai Area Plan (adopted in 2000) to change the designation for a portion of the project area from Resource Management – High Value to Settlement.

Land Classification Order: In relation to the proposed Area Plan Amendment, DNR DMLW proposes to reclassify a portion of the project area in a Land Classification Order from Resource Management – High Value to Settlement.

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Mineral Order: DNR DMLW proposes to close the project area to new mineral entry through Mineral Order (MO) 1188.

Public notice for these related actions was conducted concurrently with the notice for the primary action's Preliminary Decision.

II. Authority

DNR has the authority under *AS 38.05.045 Generally* to sell State-owned land if, on preparation and issuance of a written finding, it is determined to be in the best interest of the State, as required by *AS 38.05.035(e) Powers and Duties of the Director*. Article VIII, Section 1, of the Constitution of the State of Alaska provides: "It is the policy of the State to encourage the settlement of its land and development of its resources by making them available for maximum use consistent with the public interest".

For related actions, *AS 38.04.065 Land Use Planning and Classification*, *AS 38.05.300 Classification of Land*, and *AS 38.05.185 Generally* allow for amendments and special exceptions to area plans, land classifications, and mineral orders.

III. Public Participation and Input

All State requirements for public notice and public comment input have been met as covered in detail in Section **V. Summary of Public Notice and Comments**. Further information may lead to alterations of design of this project within the parameters set forth through this decision. Should this project move forward with State approval, final subdivision design and survey will be completed by an Alaska licensed surveyor. The surveyor will submit a platting application including a preliminary plat to the local platting authority prior to survey. This process will be subject to Kenai Peninsula Borough ordinances and codes. During the process, the public will have opportunity at the local level to provide additional comment and feedback prior to final establishment of lot corners and monuments.

Subdivision design will be submitted to the Kenai Peninsula Borough for review in accordance with Title 20 *Subdivisions* of their ordinance.

Section 20.25.090. *Notice*. This section provides for notice of public hearing and notification to affected property owners at least 14 days prior to the public hearing.

Section 20.25.100. *Approval—Commission authority—Notification required*. Within 60 days from date of acceptance by planning director, the commission shall determine if plat complies with provisions and will approve or disapprove and shall notify the subdivider of its action.

IV. Traditional Use Findings

In accordance with *AS 38.05.830 Land Disposal in the Unorganized Borough*, a traditional use finding is required for project areas located within the Unorganized Borough. This project area is within an organized borough; therefore, no Traditional Use Finding is required.

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V. Summary of Public Notice and Comments

Pursuant to AS 38.05.945 Notice, public notice inviting comment appeared on the State of Alaska Online Public Notices website at <https://aws.state.ak.us/OnlinePublicNotices/> and was posted on the DNR DMLW LSS website at http://dnr.alaska.gov/mlw/landsale/public_notice/ for the entire public notice period.

Notification and decision copies were sent directly to area state legislators and to multiple state agencies. Public notice was sent to other interested entities including landowners in the vicinity of the offering; additionally, parties were notified via the DNR Land Sales subscribers lists by email. Information was also posted to Twitter and Facebook. Notices were mailed to the Kenai Peninsula Borough per AS 38.05.945(c)(1), as well as Cook Inlet Region Corporation (CIRI) per AS 38.05.945(c)(2)-(3). Additionally, notices and a request to post were sent to postmasters and librarians in the vicinity of the offering.

The public notice stated that written comments were to be received by 5:00PM, October 3, 2017 in order to ensure consideration and eligibility for reconsideration. For more information, refer to the Preliminary Decision.

DNR DMLW LSS received comments from three State of Alaska agencies, and no private individuals. All comments received during the public comment period are summarized below.

Department of Natural Resources, State Pipeline Coordinator's Section (SPCS) Comments:

SPCS verified there are no AS 38.35 pipeline Rights-of-way, applications, or AS 38.35 proposed pipelines in the vicinity of the project area.

DNR DMLW LSS Response: The review and response are appreciated.

Two other agencies, the Alaska Department of Fish and Game and Alaska Office of History and Archaeology responded with no additional comments or comment of non-concern.

Individual Comment: No individual public comments were received for this project.

VI. Modifications to Decision and/or Additional Information

The recommended action has not been modified from the original proposed actions described in the Preliminary Decision.

Recommendation and Approval of the Final Finding and Decision follow.

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VII. Final Finding and Decision

The Department recommends proceeding with the proposed actions as described in the Preliminary Decision. This action is undertaken under relevant authorities. Offering these parcels for sale will help meet the State’s goal to provide land for settlement for sale to the public and raise revenue for the State.

The findings presented above have been reviewed and considered. Public Notice has been accomplished in accordance with *AS 38.05.945 Notice* and comments received were considered. The project file has been found to be complete and the requirements of all applicable statutes have been satisfied. The proposed actions are consistent with constitutional and statutory intent for State-owned land and this action is undertaken under relevant authorities.

Under the authority of the applicable statutes, it is hereby found to be in the best interest of the State of Alaska to proceed with the recommended actions as described and referenced herein.

/s/

Recommended by: Kathryn Young
Section Manager
Land Sales Section
Division of Mining, Land, and Water
Department of Natural Resources
State of Alaska

Oct. 31, 2017

Date

/s/

Approved by: Brent Goodrum
Director
Division of Mining, Land, and Water
Department of Natural Resources
State of Alaska

15 JAN 2018

Date

/s/

Approved by: Andrew T. Mack
Commissioner
Department of Natural Resources
State of Alaska

April 3, 2018

Date

Reconsideration Provision

A person affected by this decision who provided timely written comment or public hearing testimony on this decision may request reconsideration, in accordance with *11 AAC 02*. Any reconsideration request must be received within 20 calendar days after the date of "issuance" of this decision, as defined in *11 AAC 02.040(c) and (d)* and may be mailed or delivered to Commissioner, Department of Natural Resources, 550 W. 7th Ave., Ste. 1400, Anchorage, Alaska 99501; faxed to 907.269.8918; or sent by electronic mail to dnr.appeals@alaska.gov.

If reconsideration is not requested by that date or if the commissioner does not order reconsideration on his own motion, this decision goes into effect as a final order and decision on the 31st day after issuance. Failure of the commissioner to act on a request for reconsideration within 30 calendar days after issuance of this decision is a denial of reconsideration and is a final administrative order and decision for purposes of an appeal to Superior Court. The decision may then be appealed to Superior Court within a further 30 days in accordance with the rules of the court, and to the extent permitted by applicable law. An eligible person must first request reconsideration of this decision in accordance with *11 AAC 02* before appealing this decision to Superior Court. A copy of *11 AAC 02* may be obtained from any regional information office of the Department of Natural Resources.